

**UNITED STATES COURT
OF
MILITARY COMMISSION REVIEW**

Before
D. Francis, J. Feltham, and E. Geiser

UNITED STATES

Appellant

V.

OMAR AHMED KHADR

Appellee

**RULING ON APPELLEE'S
MOTION FOR RECONSIDERATION
OF RULING ON MOTION FOR
EXTENSION OF TIME TO FILE**

CMCR CASE NO. 08-003

DATE: 29 August 2008

Appellee's Motion for Reconsideration of this Court's Order of August 28, 2008, denying in part Appellee's Motion for Extension of Time, is DENIED. Appellee's Response Brief is due at 5:00 p.m. Eastern Time on September 12, 2008.

FOR THE COURT:

Mark Harvey
MARK HARVEY
Deputy Clerk of Court

UNITED STATES OF AMERICA)	IN THE COURT OF MILITARY
)	COMMISSION REVIEW
)	MOTION FOR RECONSIDERATION OF
v.)	RULING ON MOTION FOR EXTENSION
)	OF TIME TO RESPOND
)	
OMAR AHMED KHADR)	CASE No. 08-003
)	Convened by MCCO # 07-02
)	Presiding Military Judge
)	Colonel Patrick Parrish
)	

**TO THE HONORABLE, THE JUDGES OF THE COURT OF MILITARY
COMMISSION REVIEW**

Relief Sought

COMES NOW Appellee pursuant to Rule 19 of this Court's Rules of Practice and Procedure and respectfully requests that this Court reconsider (in part) its ruling of 28 August 2008 and grant Appellee until at least 19 September 2008 to file its brief in response to the Government's appeal in this case. In light of the relief requested, Appellee respectfully requests this Court to rule on the instant motion no later than 1700, 29 August 2008.

Argument

As stated in the Appellee's Motion for Extension of Time to Respond ("Motion"), the Appellee, Omar A. Khadr (Mr. Khadr), is the subject of ongoing proceedings before a military commission at Guantanamo Bay. Appellee's Motion was based on the fact that Appellee's counsel (who act as Appellee's trial defense counsel in military commission proceedings), will be preoccupied with preparation for, and conduct of, a vital session of Appellee's military commission, currently scheduled for 10 September 2008. It was perhaps unclear from Appellee's Motion that this will necessitate Appellee's counsel being out of their regular offices and at Guantanamo Bay for the *entirety* of the week of 8 September (i.e., 8 -12 September). It is

uncertain whether the 10 September session of the commission will last more than one day, but it is quite certain that counsel will need to avail themselves of any time after the session to meet and consult with Mr. Khadr (in light of logistical constraints, days adjacent to sessions of the military commission are essentially the only times counsel can speak with their client). And, as matters stand, it is very likely that counsel will be traveling back from Guantanamo Bay on 12 September – they very day Appellee’s answer is now due under the terms of the Court’s ruling on Appellee’s Motion. As a result, while Appellee is appreciative of the Court’s consideration of these matters in connection with its decision on Appellee’s initial Motion, the practical effect of the Court’s ruling is to *deny* the initial requested relief.

Based on the foregoing, Appellee respectfully requests the Court to reconsider its ruling on the Motion. At a minimum, Appellee’s counsel will need the week of 15 September to competently complete work on an answer to the Government’s brief, and therefore, suggest *19 September 2008* as an alternative date for submission of the Appellee’s answer. This is wholly reasonable solution to the issue in light of the interests at stake. The Government’s response to the Appellee’s Motion, in which it opposes giving Appellee’s counsel a few extra *days* to respond to the Government’s appeal, is striking in light of the fact that the Government elected to give itself an additional *five months* in preparing its brief by not taking an appeal from the Military Commission’s initial granting of the defense motion to strike and only raising the issue – at the 11th hour – by dint of a motion for reconsideration.¹ The Government should not now benefit (and Mr. Khadr should not be prejudiced) by the Government’s gamesmanship and

¹ Military Judge Brownback initially granted the defense motion on 4 April 2008. (See Gov’t Appx., Ex. F.)

dilatory conduct. The Court should grant Appellee an extension until at least 19 September 2008 to file its answer.

/s/
William Kuebler
LCDR, JAGC, USN

Rebecca S. Snyder

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was e-mailed to this Court, Major Jeffrey D. Groharing, USMC; Captain Keith A. Petty, JA, USA; Jordan A. Goldstein, and John Murphy, on 29 August 2008.

/s/
William C. Kuebler
LCDR, JAGC, USN